HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 872 (M/B) of 2006

1. Km. Kusum D/o Sri Suresh,
2. Mr. Deepak S/o Mattu Ram,
3. Mr. Sanjay S/o Khusi Ram,
4. Bharat S/o Khusi Ram,
   All resident of Mahalla Kashipura, Brhampuri,
   Police Station Kotwali, Haridwar.
   District Haridwar. ------ Petitioners.

Versus

1. State of Uttaranchal through,
   Senior Superintendent of Police,
   Haridwar, District Haridwar.
2. Station House Officer, Kotwali Haridwar,
   District Haridwar.
3. Vijay S/o Subhas,
   R/o Mohalla Kashipura, Police Station Kotwali,
   Haridwar, District Haridwar. ..... Respondents

.....

Sri Vivek Shukla, learned counsel for the petitioners.
Learned A.G.A. for the respondents.

Coram: Hon'ble M.M. Ghildiyal, J.
Hon'ble B.S. Verma, J.

P.C.:-

By way of this writ petition, a writ of mandamus has been sought commanding the respondent nos. 1 & 2 not to arrest the petitioners in case crime no. 521-A of 2006 u/s 147, 148, 307, 323, 504, 506, 452 & 427 IPC, P.S. Kotwali, Haridwar, District Haridwar during the pendency of the writ petition.

2. Brief facts of the case are that a first information report was lodged by respondent no.3 against the petitioners u/s 147, 148, 307, 323, 504, 506, 452 & 427 IPC alleging therein that the petitioners intentionally committed rioting; at the time they

were armed with deadly weapons; did an act with such interim or knowledge and under such circumstances, that if by that act death is caused, caused hurt, committed criminal intimidation' gave provocation by hurling abuses, committed house-trespass for assaulting, and they committed mischief and thereby caused loss and damage to the property in the shop.

3. Heard Sri Vivek Shukla, leaned counsel for the petitioners and learned Assistant Gov. Advocate for the respondents and perused the record.

4. We of the opinion that a prima-facie case, on the basis of the allegations made in F.I.R., is made out against the petitioners at the stage.

5. We are not inclined to interfere with the investigation, as the evidence is still incomplete.

6. The writ petition lacks merit and is liable to be dismissed in limine.

7. However, in case if the petitioners apply for bail, the Court below shall consider the same as expeditiously as possible. With these observation, the writ petitions is dismissed.

(B.S. Verma, J.) **(M.M. Ghildiyal, J.)**

July 26, 2006:
NCM: